



Stillwater/Sweet Grass County Annual Notification Newsletter 2007

Attention Producers: By law, FSA is required to provide producers with regulations and available services annually. That is the purpose of this mailing.

Foreign Buyers Notification:

The Agricultural Foreign Investment Disclosure Act (AFIDA) requires all foreign owners of United States agricultural land to report their holdings to the Secretary of Agriculture. FSA administers this program for USDA. Foreign persons who have purchased or sold agricultural land are required to report the transaction to FSA within 90 days of the closing. Failure to submit the AFIDA form could result in civil penalties up to 25% of the fair market value of the property.

County government offices, realtors, attorneys and others involved in real estate transactions are reminded to notify foreign investors of these reporting requirements.

Nondiscrimination Statement:

"The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotope, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer."

Gross Revenue:

Many disaster programs state that a "person", as determined by payment limitation definition, shall not be eligible to receive certain payments and benefits if their gross revenue exceeds \$2 million or \$2.5 million.

Loan and LDP Programs: USDA is required to annually publicize provisions of Loan and LDP Programs before the beginning of each crop year and making loans and LDP's for the current crop year. Loans and LDP's are available from the time of harvest until the loan availability date ends. Final loan availability date differs by crop.

Change in Farming Operation or Address:

Producers are reminded to notify this office to report change in address or ownership. This is vital to assist this office in keeping records.

Change in Direct Deposit Account:

The Debt Collection Act of 1996 mandates that payments from FSA be directly deposited into a producer's checking or savings bank account. It is important that any change in the producer's account such as type of account, bank mergers, routing number or account numbers be provided to the county office promptly to avoid possible payment delay.

Spousal Signature:

A husband and wife may sign documents on behalf of each other for FSA and Commodity Credit Corporation (CCC) programs in which either has an individual interest. This option is automatically available unless a written request for exclusion is made to the county office from either spouse. Exceptions include claim settlements, power of attorney forms and signatory authority for an entity.

Submission of Applications via E-Government:

As required by the Freedom of E-File Act, eForms provides customers with the option to electronically access, fill out, and print paper forms, or obtain secure electronic access credentials for signing and transmitting forms and other documents electronically to their local Service Center. A secure website is offered. Logon to:

<http://www.eauth.egov.usda.gov> to register for a Customer ID and password.

Controlled Substance:

Any person who is convicted under federal or state law of a controlled substance may be ineligible for USDA payments or benefits.

Violations include planting, harvesting, possessing or growing a prohibited plant. Prohibited plants include marijuana, opium poppies and other drug producing plants.

Farm Loans: FSA offers direct and guaranteed farm ownership and operating loan programs to farmers and ranchers who are temporarily unable to obtain private commercial credit. Rural youth loans, Beginning Farmer and Rancher, and assistance for socially disadvantaged persons are also available.

Annual Notice of Payment Eligibility to Producers:

USDA payments and benefits are subject to producer eligibility and limitation provisions as defined by law. FSA program benefits may not be provided to any producer until the applicable payment eligibility determinations are made. A producer will remain ineligible until all required forms for the specific situation are provided. Payment Limitation/Eligibility determinations may be initiated by the FSA County Committee or requested by the producer. Once completed, documents and forms to determine eligibility are reviewed for the year submitted. A farm operating plan (payment eligibility and payment limitation form CCC-502) is not required to be filed annually if the farming operation continues to be conducted as reflected on the farm operating plan (CCC-502), and supporting documents are on file in the County Office. However, if any changes occur that could affect a "person," "actively engaged in farming," "cash-rent tenant," "foreign person," or "average adjusted gross income" determination, producers must timely notify the County Office by filing revised farm operating plans and/or supporting documentation. Failure to do so may adversely affect the producer's payment eligibility. All payment eligibility forms (CCC-502) submitted by a producer are subject to spot check through the End-of-Year Review process. Farming operations selected for an End-of-Year Review will be required to submit documents to verify their contributions of capital, land, equipment, labor, and management. Please contact the County Office for questions concerning documents to be submitted. Individuals, joint operations, or entities which are determined to be "not actively engaged in farming" will be ineligible for Direct and Counter Cyclical (DCP) Payments, Loan Deficiency Payments (LDP's), Marketing Loan Gains, Conservation Reserve Program (CRP) Payments, and possible Disaster related program payments such as the Crop Disaster Program (CDP) payments. Spouses may be determined to be two "Persons" only if this determination is requested in writing and the applicable requirements are met by each spouse. The limitation for the following programs is per "person" per fiscal year. Under the Direct and Counter Cyclical Program (DCP) direct payments are limited to \$40,000; and counter cyclical payments are limited to \$65,000; Conservation Reserve Program (CRP) payments are limited to \$50,000; Non-Insured Assistance Program (NAP) payments are limited to \$100,000; Commodity Loan Deficiency Program (LDP) payments together with Commodity Marketing Loan Gains are limited to \$75,000; and the total of payments for wool, mohair, and honey are limited to \$75,000. The 2003/2004 Crop Disaster Program (CDP) payments were limited to \$80,000; and the 2003/2004 Livestock Assistance Program (LAP) payments were limited to \$40,000. Limits for future year disaster related programs such as CDP and LAP will be announced if such programs are implemented. The Environmental Quality Incentives Program (EQIP) payments are limited to \$450,000 per "person" for the five year period of 2002 – 2007.

Actively Engaged in Farming:

For an individual or entity to be considered "actively engaged in farming," the participant must make a significant contribution of land, capital, or equipment. The participant must also make a significant contribution of active personal labor or active personal management. The participant's contributions to the farming operation must be commensurate with his/her claimed share of the profits or losses from the farming operation and the contributions must be at risk.

Highly Erodible Land and Wetland Conservation Compliance:

Landowners and operators are reminded that in order to receive payments from USDA, compliance with Highly Erodible Land (HEL) and Wetland Conservation (WC) provisions are required. Farmers with HEL determined soils are reminded to follow tillage, crop residue and rotation requirements as specified per their conservation plan. Contact should be made with the USDA Service Center prior to conducting land clearing or drainage projects to ensure compliance.

Cooperation with RMA:

The Agricultural Risk Protection Act of 2000 requires the Farm Service Agency (FSA) and the Risk Management Agency (RMA) to work together to improve program compliance and integrity of the Federal Crop Insurance Program. As a result of the passage of the 2000 Act, RMA and FSA are required to coordinate a plan to identify, address and reconcile discrepancies of all relevant producer-derived information, and to coordinate a monitoring program to include fact finding relative to allegations of program fraud, waste, and abuse.

FSA will assist RMA and insurance providers in monitoring conditions throughout the growing season and conduct growing season inspections. All suspected cases of fraud, waste, and abuse concerning the Federal Crop Insurance Program will be referred to RMA. FSA will also assist RMA with auditing claims.

Producers may also report suspected cases of fraud, waste, and abuse to their local FSA County Office, the RMA Office or OIG.

Cash-rent Tenant:

A cash-rent tenant rule applies to any producer that rents land from another producer for cash or a crop share guaranteed as the amount of the commodity to be paid in rent. The rule also applies to any producer who rents land for zero dollars or who farms the land in exchange for compensation other than cash, such as controlling weeds on land not owned, or barter arrangements. Any cash-rent tenant shall be ineligible to receive payment unless the cash-rent tenant makes a significant contribution of active personal labor to the farming operation; or a significant contribution of active personal management **and** a significant contribution of equipment. A cash-rent tenant must also meet all applicable requirements to be considered "actively engaged in farming."

Permitted Entity Restrictions:

Individuals holding, directly or indirectly, a substantial beneficial interest in an entity that receives payment subject to "permitted entity" provisions must designate that interest for the share to be paid. A substantial beneficial interest is an ownership interest of 10 percent or more in an entity, or less than 10 percent in an entity when any individual or entity has a direct or indirect interest of less than 10 percent in more than 1 entity earning payment **and** the County Committee determines that the arrangement was established for the purpose of circumventing the "permitted entity" provisions of the program. This determination applies to all interests of the "person" that are less than 10 percent.

Statutory provisions require that entities earning program benefits, such as corporations, limited partnerships, limited liability companies, trusts and estates, provide FSA with the name, address and ID number for each individual of the entity and each individual and entity in each lower level of embedded entities when applicable. These entities must also inform their members of the requirement for designating "permitted entities." One set of "permitted entities" applies to all programs subject to "permitted entity" designations.

Foreign Person Rule:

A foreign individual is someone who is not a citizen of the United States or a lawful alien possessing a valid Alien Registration Receipt Card (Form I-551 or I-151). A foreign entity is a corporation, trust, estate, limited partnership, limited liability company, or other similar organization that has more than 10 percent of its beneficial interest held by individuals who are not citizens of the United States or lawful aliens possessing a valid Alien Registration Receipt Card (Form I-551 or I-151). In addition to the requirements for "person" and "actively engaged in farming," the following significant contributions must be provided by an individual or entity considered to be a "foreign person." An individual determined to be a "foreign person" must provide a significant contribution of land, capital, and active personal labor.

Each foreign individual who is a member of an entity determined to be a "foreign person" must provide active personal labor to enable the entity to provide a significant contribution of active personal labor.

Under-Represented Groups:

FSA solicits and accepts nominations of under-represented groups such as females and minority (American Indian or Alaska Native, Asian, Black/African American, Hispanic/Latino, Native Hawaiian or Other Pacific Islander) producers for county committee representation. Please notify this office if you wish to be identified as a minority producer.

Farm Storage and Facility Loan Program: FSA is required to provide the availability of Farm Storage Facility Loans semiannually to producers via newsletters, other public news media and the Montana FSA Internet site. This information will also be provided to local farm storage facility distributors, local banks and other farm lending institutions.

Adjusted Gross Income:

The 2002 Farm Bill stated that an individual or entity shall not be eligible to receive certain payments and benefits as specified in the bill if the average adjusted gross income (AGI) of the individual or entity exceeded \$2.5 million. An individual or entity whose AGI exceeded \$2.5 million may be considered in compliance with this limitation if at least 75 percent of the AGI was derived from farming, ranching, or forestry operations. Noncompliance with the AGI provisions, either by exceeding the \$2.5 million limitation or failure to submit the applicable certification statement, will result in the determination of ineligibility for all program benefits subject to the AGI provisions; program benefits shall be reduced in an amount that is commensurate with the direct and indirect interest held by an ineligible individual or entity in any entity, general partnership, or joint operation that receives benefits subject to the AGI limitation.

Direct and Counter Cyclical Farm Specific Crop and Share Information:

To participate in DCP, producers are required to designate shares and sign the Direct and Counter-Cyclical Program Contract (CCC-509) on a yearly basis. The annual DCP sign-up period runs from October 1 to June 1 of the applicable program year. CCC-509 must be submitted by June 1 of the applicable program year. CCC-509's with signatures obtained after June 1, but before September 30, will be accepted, but the farm will be assessed a late-filed sign-up fee of \$100. All supporting documentation, such as CCC-502, AD-1026, and CCC-526, must be submitted before payments can be issued. Annual acreage reports indicating uses of all cropland on a farm must be filed by the applicable established reporting dates. Acreage reports filed after the applicable final reporting date may be accepted if all requirements are met and a late-filed fee is paid.

Reasonable Accommodation Statement:

USDA is required to provide the reasonable accommodations statement semiannually in county office newsletters and on printed announcements of all public meetings, seminars or FSA sponsored training, and farm program orientation sessions.

Website:

Producers may access FSA information and forms on the Montana Internet site at <http://www.fsa.usda.gov/mt>.

Planting Fruits and Vegetables or Wild Rice:

Planting fruits, vegetables, or wild rice on base acres may adversely affect your program benefits. Please contact this office before you plant or lease land for production of fruits, including nut trees, vegetables or wild rice, to discuss acreage reporting requirements, prevention of possible violation of program provisions, payment reductions, and severe penalties.

Stillwater County FSA

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Payment Options:

Producers may receive 22 percent advance of the direct payment amount, beginning on December 1 of the program year. Final direct payments will be made on or after October 1 following the contract period. Counter-cyclical payments may also be authorized for one or more covered commodities, depending on the projected and actual market prices. For the 2007 crop year, producers may elect to receive an advanced payment equal to 40 percent which will be issued after completing the first 6 months of the marketing year for the covered commodity and final payment, if any, are made after the end of the marketing year for the crop.

Producers who do not elect to take the advance payment will receive the entire counter-cyclical payment at this time. The amount of a counter-cyclical payment is dependent upon the average of the actual prices received by farmers and during the marketing year.

Civil Rights/Discrimination Process:

As a participant or applicant for programs or activities operated or sponsored by USDA, you have a right to be treated fairly. If you believe you have been discriminated against because of race, color, national origin, gender, age, religion, disability, or marital or familial status, you may file a discrimination complaint.

The complaint should be filed with the USDA Office of Civil Rights within 180 days of the date you became aware the alleged discrimination occurred. To file a complaint of discrimination write: USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Room 326W, Whitten Building, Stop 9410, Washington DC 20250-9410 or call 202-720-5964 (voice or TDD).

Make Sure Your Proper Signature Authorization is on File:

The Improper Payments Information Act of 2002 required every federal agency to identify programs and activities susceptible to possible improper payments. As a result, FSA has been reviewing every producer's eligibility file to determine who is authorized to sign FSA program documents in representative capacities and if the signature format is proper. If you are contacted by your local FSA Office, you will be asked to provide copies of signed legal documents specific to your organization. The documents that may be requested to verify ownership interest as well as signature authority for the organization are identified as follows:

Corporation: Articles of Incorporation, By-Laws, Corporate Resolutions, Corporate Meeting Minutes, Share Certificates, Share Registers, Share Receipts, Annual Report Filed with the Montana Secretary of State's Office.

Limited Liability Company: Articles of Organization. Operating Agreement, Annual Report Filed with the Montana Secretary of State's Office.

Limited Liability Partnership: Partnership Agreement.

Limited Partnership: Partnership Agreement.

General Partnership: Partnership Agreement, IRS Form 1065 and applicable Schedule K-1.

Trust: Trust Agreement.

Estate: Last Will and Testament, Court Orders of Appointment containing the signature of an officer of the issuing court, Court-approved certificate of letter of administration containing the signature of an officer of and issuing court, Certification by an officer of the issuing court that the evidence of authority is in full force and effect.

Joint Venture: IRS Form 1065 and applicable Schedule K-1.

For a complete listing of FSA signature requirements, contact your local FSA office or logon to the Montana FSA website at <http://www.fsa.usa.gov/mt> and click on the Signature Authority Pamphlet link under "In the News."